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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,047	06/27/2001	Michael H. Coden	100.095US02	5948
34206	7590	09/14/2005	EXAMINER	
FOGG AND ASSOCIATES, LLC P.O. BOX 581339 MINNEAPOLIS, MN 55458-1339			PHAM, BRENDA H	
			ART UNIT	PAPER NUMBER
			2664	
DATE MAILED: 09/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,047

Applicant(s)

CODEN, MICHAEL H.

Examiner

Brenda Pham

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) 41-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/05/06/01</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

1. Restriction to one of the following inventions is required under 35 USC 121:
 - I. Claims 1-40 drawn to a ring switch for a ring network, classified in class 370, subclass 258.
 - II. Claims 41-74 drawn to a method for building a table for routing, classified in class 370, subclass 395.31.
2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP 806.04, MPEP 808.01). In this instant case the different inventions have different functions, and they have different effects.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art shown by their different classification because of their recognized divergent subject matter, and the search required for each Group I and II is not required for other Group, restriction for examination purpose as indicated is proper.
4. During a telephone conversation with Ms Laura A. Ryan, Reg. No. 49,055 on August 24, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-40. Affirmation of this election must be made by applicant

Art Unit: 2664

in replying to this Office action. Claims 41-74 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Double Patenting

5. Claims 1-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,331,985 B1.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 11-16 of the instant application encompass the patented invention of claims 1-9 of the above patent.

6. Claims 1-40 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,154,462.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wong et al (US 6,363,077) discloses a communications network switch includes a plurality of network ports for transmitting and receiving packets to and from network nodes via network links, each of the packet having a destination address and a source address, the switch being operative to communicate with at least one trunking network device via at least one trunk formed by a plurality of aggregated network links.

Art Unit: 2664

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

September 2, 2005

Brenda Pham

Brenda A. Pham